

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

**IN RE: ETHICON, INC.  
PELVIC REPAIR SYSTEM  
PRODUCTS LIABILITY LITIGATION**

**MDL NO. 2327**

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**THIS DOCUMENT RELATES TO THE CASES  
ON THE EXHIBIT ATTACHED HERETO**

**JOINT REQUEST FOR DISMISSAL**

Plaintiffs and defendant Caldera Medical, Inc. (“Caldera”) hereby submit this joint request for a dismissal with prejudice of all cases in this MDL Caldera in accordance with the March 3, 2017 Judgment and Bar Order entered by the Honorable Steven V. Wilson (“Judge Wilson”) in the Federal Insurance Company interpleader action, *Federal Insurance Co. v. Caldera Medical, Inc., et al.*, Case No. 2:15-cv-00393-SVW-PJW.

**THE CALDERA SETTLEMENT AND THE JUDGMENT AND BAR ORDER**

On January 20, 2015, Caldera’s insurance carrier, Federal Insurance Company (“Federal”), filed an interpleader action in the Central District of California (the “Interpleader Action”) against Caldera and various plaintiffs as class representatives. *See Federal Insurance Co. v. Caldera Medical, Inc., et al.*, Case No. 2:15-cv-00393-SVW-PJW, Dkt. No. 1. Federal brought the Interpleader Action to resolve a coverage dispute with Caldera and to provide a potential vehicle for a class-action settlement of all transvaginal mesh claims (“TVM Claims”) against Caldera.

On December 28, 2015, Federal, Caldera and Plaintiffs’ Settlement Liaison Counsel agreed to a non-opt-out class settlement and filed a Joint Motion for Preliminary Settlement Approval, Preliminary Class Certification and Class Notice in the Interpleader Action (“Joint

Motion for Preliminary Settlement Approval”). *Id.*, Dkt. No. 210. On January 25, 2016, the Court entered an Order (the “January 25 Order”) granting the Joint Motion for Preliminary Settlement Approval, directing the parties to provide notice of the settlement, setting an April 25, 2016 deadline for all objections to the settlement, and setting May 2, 2016 as the deadline for all claimants to participate in the settlement by filing a Proof of Claim form (the “Cutoff Date”). *Id.*, Dkt. No. 217. Thereafter, in accordance with the January 25 Order, Plaintiffs’ Settlement Liaison Counsel mailed notice of the settlement and its terms to all known claimants by February 8, 2016, and published the required notice in the *USA Today* and the *Wall Street Journal, National Edition* by February 24, 2016. On May 17, 2016, the parties filed a Joint Motion for Final Settlement Approval, which was denied by the Court. On September 19, 2016, the parties refiled the Joint Motion, providing additional financial information concerning Caldera. *Id.*, Dkt. Nos. 239 and 270. On January 31, 2017, the Court issued an Order granting the Joint Motion for Final Settlement Approval and on March 3, 2017 entered a judgment and bar order approving the settlement in its entirety (“Judgment and Bar Order”). *Id.*, Dkt. Nos. 306 and 311. A copy of the Judgment and Bar Order is attached as Exhibit 1.

In order to effectuate the settlement, the Judgment and Bar Order requires Plaintiffs’ Class Counsel to file dismissal requests in all cases with TVM Claims against Caldera, Biomedical Structures, Encision, Coloplast [on its own behalf and as successor in interest to Mpathy], Parker Hannifin, and J-PAC LLC involving Caldera TVM products within thirty days of the Judgment and Bar Order becoming a Final Judgment<sup>1</sup>:

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<sup>1</sup> Since no appeal was filed, the Judgment and Bar Order became a Final Judgment on April 4, 2017.

Within thirty (30) days after the date on which this Judgment becomes a Final Judgment, Class Counsel shall, on behalf of the Settlement Class,<sup>2</sup> file requests to dismiss with prejudice, from all litigation based upon, arising out of, or in any way related to or involving, directly or indirectly, in whole or in part, any Caldera Pelvic Product-Related Injuries, Caldera and any other Insureds and Contractual Indemnitees (including Biomedical Structures, Encision, Coloplast [on its own behalf and as successor in interest to Mpathy], Parker Hannifin, and J-PAC LLC, including any parent, subsidiary, legal or equitable predecessor or successor company to the foregoing [and expressly excluding American Medical Systems, Inc.], but only to the extent that such litigation is based upon Caldera Pelvic Product[s]) including without limitation the at least 602 claimants who had filed suit against Caldera as of the date the Settlement Agreement was signed.

*Id.*, Dkt. No. 311, ¶ 9.

Accordingly, pursuant to the terms of the Judgment and Bar Order, Plaintiff and Caldera hereby request a dismissal with prejudice of all cases in this MDL against Caldera and any other Insureds and Contractual Indemnitees. A proposed dismissal order including a chart listing the cases and defendants to be dismissed is attached hereto as Exhibit 2.

Dated: May 19, 2017

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ATTORNEYS FOR DEFENDANT  
CALDERA MEDICAL, INC

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<sup>2</sup> The Caldera Settlement Agreement, which is incorporated by reference in the Judgment and Bar Order, defines the Settlement Class as all persons who “have asserted, are asserting, or shall have asserted” any claims against Caldera and/or any other Insured or Contractual Indemnatee, arising out of an alleged injury from a Caldera transvaginal mesh product by the Cutoff Date, including all individuals actively litigating claims in various lawsuits at the time of the Caldera settlement. *Id.*, Dkt. No. 209-2, Caldera Settlement Agreement, ¶ 1.5.

Dated: May 19, 2017

s/Rachel Abrams (signed with consent)

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Dated: May 19, 2017

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